

IN RE: PETITION FOR ZONING VARIANCE  
W/S Burton Avenue, 425' S  
c/1 Seminary Avenue  
1434 Burton Avenue  
8th Election District  
3rd Councilmanic District  
Vincenzo Serruto, et ux  
Petitioners

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 89-377 A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1802.3.B. to permit a lot width of 50' and a side yard setback of 5' in lieu of the minimum 55' and 10' respectively, as more particularly described on Petitioner's Exhibit 1.

The Petitioners, Vincenzo Serruto and Paola Serruto appeared and testified and were represented by Mr. Robert E. Spellman of Spellman, Larson and Associates. The Petitioners were supported in their testimony by Antonietta Serruto, the Petitioners' daughter, and Mr. Charles Forbes, Zoning Chairman, Lutherville Community Association, who appeared and testified. He was not opposed to the relief. There were no Protestants.

The property zoned D.R.5.5 consists of two lots as shown on Petitioner's Exhibit 1 of approximately 10,200 square feet each. The lot known as lot #2 has been developed with a single family dwelling unit since approximately 1940. The requested side yard setback variance is for the existing home on lot #2. As indicated on Petitioner's Exhibit 1, the currently existing 1-1/2 story dwelling unit known as 1434 Burton Avenue is approximately 5 ft. from the north boundary property line which is also the side yard property line for lot #2. As a result of the requested variance for lot 1, the property on lot 2 must also obtain a variance in order to bring it in compliance with the currently existing D.R. 5.5 zoning regulations.

The Petitioners' expert witness, Mr. Robert Spellman, and the Petitioners, themselves, testified as to the practical difficulties and unreasonable hardships of moving a structure that has been in existence for nearly forty years.

Testimony concerning the 50 foot lot variances were provided by the Petitioners and the expert witness. They testified to the lack of additional ground area in order to generate the acceptable 55 foot wide D.R.5.5 lots. The testimony indicates that the subject lots are in excess of the square footage requirement for D.R.5.5 lots and that the subject house on lot #1 would be built within conformance of all setback requirements. The above mentioned setback variance is only for the existing dwelling and is not for any future development on lot #1.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Section 307.1, Baltimore County Zoning Regulations (B.C.Z.R.) states that the Baltimore County Zoning Commissioner and or Deputy Zoning Commissioner shall have the power to create variances from an area regulation where strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

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In reviewing the Petition, it must be kept in mind that "the standard for granting a variance... is... whether strict compliance with the regulations would result in 'practical difficulty or unreasonable hardship'; and that it should be granted only if in strict harmony with the spirit and intent of the Zoning regulations; and only in such manner as to grant relief without substantial injury to the public health, safety and general welfare." McLean v. Soley.

The question, therefore, is whether it was fairly debatable that the evidence shows strict compliance with the regulations would result in practical difficulty or unreasonable hardship. The evidence, clearly, supports a finding of practical difficulty and/or unreasonable hardship.

Pursuant to the advertisement of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in this variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of March, 1989 that the Petition for Zoning Variance from Section 1802.3.B. to permit a lot width of 50' and a side yard setback of 5' in lieu of the minimum 55' and 10' respectively, as more particularly described on Petitioner's Exhibit 1 be and is hereby GRANTED, subject, however, to the following restrictions:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Compliance with the comments submitted by the Baltimore County Zoning Plans Advisory

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Committee (ZAC), which are adopted in their entirety and made a part of this Order.

3. A variance for both lot #1 and lot #2 for the width of a lot shall run with the land. The setback variance shall be strictly limited to lot #2 as indicated on Petitioners' Exhibit 1. Lot #1 shall not be entitled to any further setback or area variances and all development must be contained within the perimeters of the proposed building envelope as portrayed on Petitioners' Exhibit 1.

*J. Robert Haines*  
J. ROBERT HAINES  
ZONING COMMISSIONER FOR  
BALTIMORE COUNTY

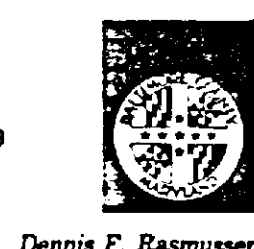
JRH/mmm  
cc: Peoples Counsel  
Ms. Antonietta Serruto, 4 Sugarbury Court, Apt. 2B, Reisterstown, Md. 21136  
Mr. Robert Spellman, Spellman, Larson and Assoc., 105 W. Chesapeake Avenue, Suite 107, Towson, Md. 21204  
Mr. Charles Forbes, Zoning Chairman, Lutherville Community Assn. Lutherville, Maryland 21093

ORDERED FOR FILING  
By *J. Robert Haines*  
Date 3/22/89

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Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3333  
J. Robert Haines  
Zoning Commissioner

March 21, 1989



Dennis F. Rasmussen  
County Executive

Mr. and Mrs. Vincenzo Serruto  
1434 Burton Avenue  
Baltimore, Maryland 21093

RE: Petition for Zoning Variance  
Case No. 89-377 A

Dear Mr. and Mrs. Serruto:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 897-3391.

Very truly yours,  
*J. Robert Haines*  
J. Robert Haines  
Zoning Commissioner

JRH:mmm  
att:  
cc: Peoples Counsel  
Ms. Antonietta Serruto  
Mr. Charles Forbes, Lutherville Community Assoc.

PETITION FOR ZONING VARIANCE  
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-377-A  
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.B. To permit a lot width of 50' and a side yard setback of 5' in lieu of the minimum 55' and 10', respectively.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

1. To build house next to parents who are now old; and who are unable to speak any English; the daughter would be able to take care of parents.
2. Building the house in the back of the lot would take away from the front yardage set-backs of all the other homes. It would be the only house in the back of the yard.
3. Placing the house in the back of the yard would cause problems from the adjacent park in the back of the property, i.e. flood lights while sports are being played, additionally the noise from the participants in the sports would be loud.

1. or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: \_\_\_\_\_  
(Type or Print Name)  
Signature \_\_\_\_\_  
Address \_\_\_\_\_  
City and State \_\_\_\_\_

Legal Owner(s):  
Vincenzo Serruto  
(Type or Print Name)  
Signature *Vincenzo Serruto*  
Paola Serruto  
(Type or Print Name)  
Signature *Paola Serruto*

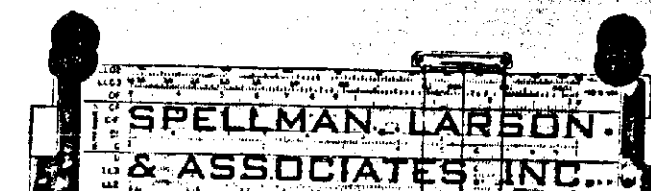
Attorney for Petitioner: \_\_\_\_\_  
(Type or Print Name)  
Signature \_\_\_\_\_  
Address \_\_\_\_\_  
City and State \_\_\_\_\_  
Attorney's Telephone No.: \_\_\_\_\_

Name, address and phone number of legal owner, contract purchaser or representative to be contacted  
Antonietta Serruto  
Name  
4 Sugarbury Ct. Apt. 2B  
Reisterstown, Md. 21136  
Address  
526-6798  
Phone No.

ORDERED BY The Zoning Commissioner of Baltimore County, this 25th day of March, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 105, County Office Building in Towson, Baltimore County, on the 16th day of March, 1989, at 10 o'clock A.M.

*J. Robert Haines*  
J. Robert Haines  
Zoning Commissioner of Baltimore County.

(over)



SUITE 107 - JEFFERSON BUILDING  
105 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
823-3535

ROBERT E. SPELLMAN, P.L.C.  
JOSEPH L. LARSON  
JOSEPH M. JAMES  
ALFRED F. JAMES, P.L.C.

#### DESCRIPTION FOR A VARIANCE TO ZONING, 1434 BURTON AVENUE, 8TH DISTRICT, BALTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME AT A POINT ON THE WEST SIDE OF BURTON AVENUE, 50 FEET WIDE, AT THE DISTANCE OF 400 FEET, MORE OR LESS MEASURED SOUTHERLY ALONG THE WEST SIDE OF BURTON AVENUE FROM THE SOUTH SIDE OF SEMINARY AVENUE AND RUNNING THENCE AND BINDING ON THE WEST SIDE OF BURTON AVENUE SOUTH 2 DEGREES 45 MINUTES WEST 100.0 FEET THENCE LEAVING THE WEST SIDE OF BURTON AVENUE AND RUNNING NORTH 87 DEGREES 15 MINUTES WEST 204.0 FEET NORTH 2 DEGREES 45 MINUTES EAST 100.00 FEET AND SOUTH 87 DEGREES 15 MINUTES EAST 204.0 FEET TO THE PLACE OF BEGINNING.

CONTAINING 20,400 SQUARE FEET OR 0.46 ACRES OF LAND MORE OR LESS.

1/4/89



RESIDENTIAL & COMMERCIAL DEVELOPMENT DESIGN • LAND SURVEYING  
LAND PLANNING • SUBDIVISION LAYOUT • FEASIBILITY STUDIES • ESTIMATING  
GRADING STUDIES • LOCATION SURVEYS • TECHNICAL CONSULTATION

#### CERTIFICATE OF PUBLICATION

TOWSON, MD., March 7, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Mar 2, 1989.

TOWSON TIMES,

*S. Zafe Orlan*  
S. Zafe Orlan  
Publisher

PO 10441  
reg M25297  
price \$95.29

#### CERTIFICATE OF PUBLICATION

TOWSON, MD., March 7, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on March 2, 1989.

THE JEFFERSONIAN,

*S. Zafe Orlan*  
S. Zafe Orlan  
Publisher

PO 10441  
reg M25297  
price \$95.29



BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE  
J. Robert Haines  
TO: Zoning Commissioner  
FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning  
SUBJECT: Zoning Petition Nos. 89-372-A (RLC, Inc.); 89-373-A (Rutkowski);  
89-377-A (Serruto) and 89-388-A (Babikow)  
Date: March 6, 1989

The petitioners listed above are all requesting setback variances to allow development on lots less than 55 feet in width. In reference to these requests, staff's primary concerns are:

1. What is the impact on adjoining property?
2. Are adequate setbacks (building to building setback should be approximately 20 to 30 feet) being provided?
3. Will the reduced lot size result in requests for additional variances?

If the petitioners request(s) are granted, staff recommends the following conditions be applied:

- \* All building setback lines shall be shown on the site plan and recorded by the applicant. A statement shall be included stating that all development shall conform to the setbacks as shown and additional variances shall not be granted.

PK/sf  
RECEIVED  
MAR 9 1989  
ZONING OFFICE

PLEASE PRINT CLEARLY  
PETITIONER(S) SIGN-IN SHEET  
ADDRESS  
ROBERT HAINES  
BUD SPELLMAN  
Antonieta Serruto  
Vincenzo Serruto  
Paola Serruto  
Charles Forbes  
S.L.T.A.  
4 Sugarbury Ct Apt 2B 21136  
1434 Burton Ave Lutherville, Md 21093  
Zoning Chair  
Lutherville Community Assn.  
P.O. Box  
Lutherville, MD 21093  
Present for information, not  
application

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland  
District: 8th  
Posted for: Variance  
Petitioner: Vincenzo Serruto et ux  
Location of property: W/S of Burton Avenue 425' South of the  
C/P of Seminary Ave (1434 Burton Ave)  
Location of Sign: 1434 Burton Avenue  
Remarks: J.R. Haines  
Posted by: J.R. Haines  
Date of return: 3-2-89  
Number of Signs: 1

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333  
J. Robert Haines  
Zoning Commissioner  
Date: 3/1/89  
Ms. Antonietta Serruto  
4 Sugarbury Court, Apt. 2B  
Reisterstown, MD 21136  
Re: Petition for Zoning Variance  
CASE NUMBER: 89-377-A  
W/S Burton Avenue, 425' S c/l Seminary Avenue  
1434 Burton Avenue  
8th Election District - 3rd Councilmanic  
Petitioner(s): Vincenzo Serruto, et ux  
HEARING SCHEDULED: THURSDAY, MARCH 16, 1989 at 10:00 a.m.  
Dear Ms. Serruto:  
Please be advised that \$10.00 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring to the Zoning Office, County Office  
BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE-REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT  
No. 067474  
DATE: 3/16/89 ACCOUNT: R-01-615-000  
AMOUNT: \$ 110.29  
RECEIVED FROM: Vincenzo Serruto  
FOR: P.A. 3/16/89 hearing 89-377-A  
VALIDATION OR SIGNATURE OF CARRIER

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333  
J. Robert Haines  
Zoning Commissioner  
February 17, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance  
CASE NUMBER: 89-377-A  
W/S Burton Avenue, 425' S c/l Seminary Avenue  
1434 Burton Avenue  
8th Election District - 3rd Councilmanic  
Petitioner(s): Vincenzo Serruto, et ux  
HEARING SCHEDULED: THURSDAY, MARCH 16, 1989 at 10:00 a.m.

Variance to permit a lot width of 50 ft. and a side yard setback of 5 ft. in lieu of the minimum 55 ft. and 10 ft. respectively.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines  
Zoning Commissioner of  
Baltimore County  
cc: Mr. & Mrs. Vincenzo Serruto  
Antonietta Serruto  
File

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 3, 1989

Mr. Vincenzo Serruto  
4 Sugarbury Ct., Apt. 2B  
Reisterstown, MD 21136

RE: Item No. 296, Case No. 89-377-A  
Petitioner: Vincenzo Serruto, et ux  
Petition for Zoning Variance

Dear Mr. Serruto:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINNIFORD IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
Courts Building, Suite 405  
Towson, Maryland 21204  
494-3354

March 1, 1989

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, MD 21204

Dear Mr. Haines,

The Bureau of Traffic Engineering has no comments for items number 264, 277, 278, 280, 281, 282, 283, 284, 286, 287, 288, 292, 293, 294, 295 & 296.

Very truly yours,

Michael S. Planigan  
Traffic Engineer Assoc. II

MSF/lab

RECEIVED  
MAR 3 1989  
ZONING OFFICE

Baltimore County  
Fire Department  
Towson, Maryland 21204-2386  
494-4500  
Paul H. Reincke  
Chief

February 7, 1989

J. Robert Haines, Zoning Commissioner  
Office of Planning & Zoning  
Baltimore County Office Building  
Towson, Maryland 21204

Re: Property Owner: Vincenzo Serruto

Location: W/S of Burton Avenue

Item No.: 296

Zoning Agenda: Meeting of January 24, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- ( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- ( ) 2. A second means of vehicle access is required for the site.
- ( ) 3. The vehicle dead end condition shown at EXCEEDS the maximum allowed by the Fire Department.
- ( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- ( ) 6. Site plans are approved, as drawn.
- ( ) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: J.H. Reincke  
Planning Group  
Special Inspection Division

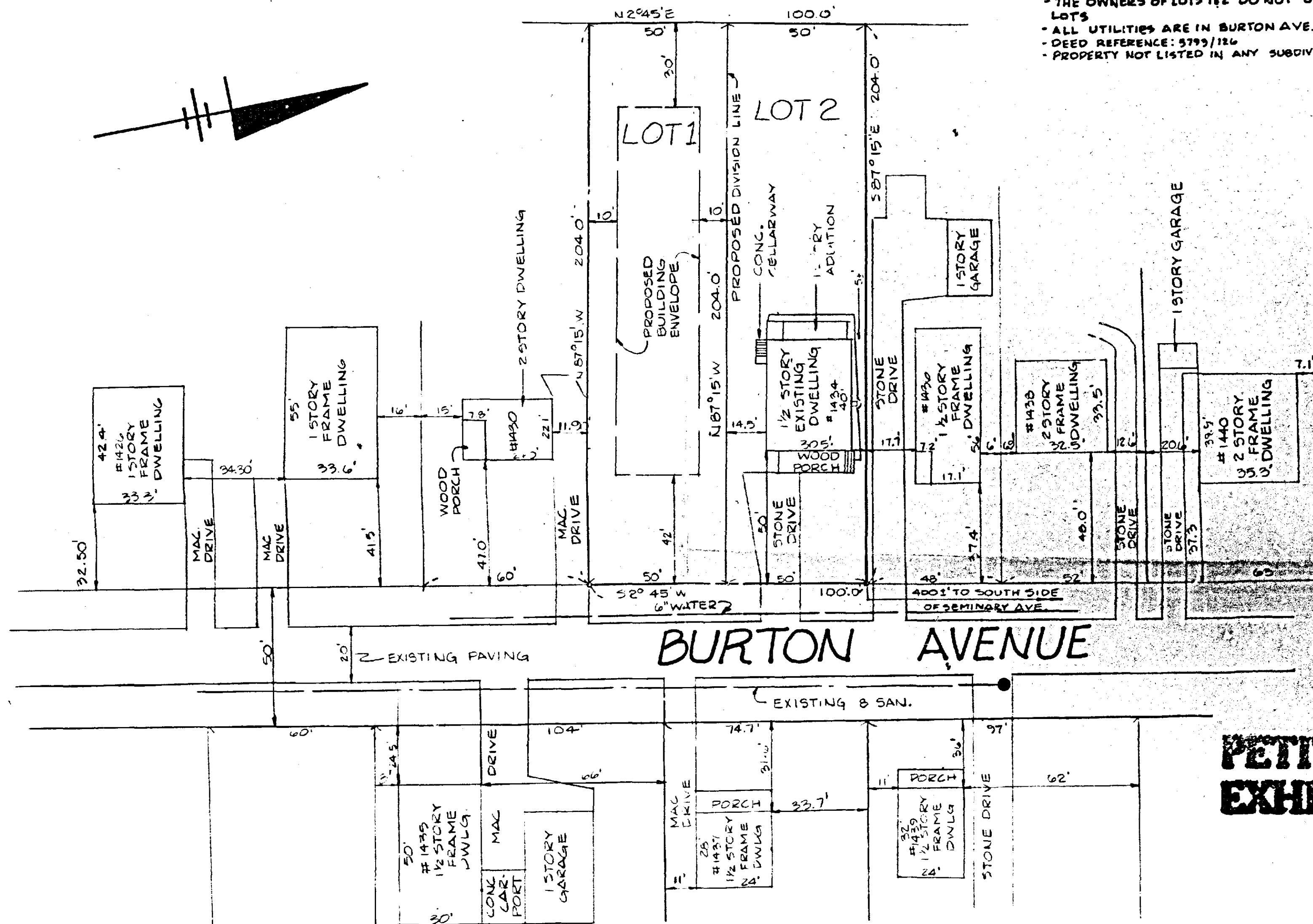
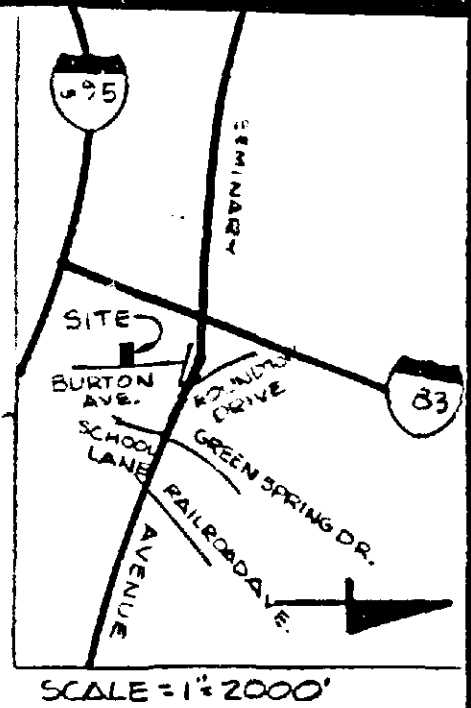
NOTED & APPROVED: John F. O'Neill  
Fire Prevention Bureau

/j1



## GENERAL NOTES

- AREA OF LOT 1: 10,200 SQ. FT. (0.23 AC.)
- LOT 2: 10,200 SQ. FT. (0.23 AC.)
- EXISTING ZONING: DR. 5.5
- PROPOSED ZONING: DR. 5.5 WITH A VARIANCE TO ALLOW A 50 FT. WIDE LOT INSTEAD OF THE REQUIRED 55 FT. WITH A 5 FT. SIDE YARD ON THE EXISTING DWELLING INSTEAD OF THE REQUIRED 10 FT.
- THE OWNERS OF LOTS 1 & 2 DO NOT OWN ANY ADJACENT LOTS
- ALL UTILITIES ARE IN BURTON AVE.
- DEED REFERENCE: 5799/126
- PROPERTY NOT LISTED IN ANY SUBDIVISION



PLAT FOR A VARIANCE TO ZONING  
FOR  
**1434 BURTON AVENUE**  
6TH DISTRICT BALTO. CO. MD

OWNERS: VINCENZO & PAOLA SERRUTO  
DEVELOPER: ANTONIETTA SERRUTO

Case File #  
89-377

296



SPELLMAN LARSON & ASSOCIATES INC.

Tolson, Maryland  
823-377  
DATE: JAN. 3, 1989 SCALE 1" = 30'